

REMARKS

Claims 20-39 are still pending. Reexamination and allowance of the pending claims is respectfully requested.

Section 112

Claims 35-39 stand rejected under 35 USC 112, first paragraph, because the examiner alleges that the various steps recited in claim 35 are not disclosed in the specification. In response, Applicant respectfully submits that all the recited steps are disclosed in the following portions of the specification: page 7, lines 11-15; page 8 line 31 to page 9 line 9; and page 15, lines 10-15. Thus, withdrawal of the Section 112 rejection is respectfully requested.

Obviousness-Type Double Patenting

Second, claims 20-39 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over certain claims of USP 6,901,940 and co-pending application no. 10/665,194. Although Applicant does not agree with the obviousness-type double-patenting rejection, Applicant will consider filing a Terminal Disclaimer to overcome this rejection after the other substantive issues have been resolved.

The Claims are Patentable Over Shaw in View of Wyllie

Independent claims 20, 28 and 35 stand rejected under 35 USC 103(a) as being unpatentable over USP 5,429,437 to Shaw ("Shaw") in view of USP 2,854,049 to Wyllie ("Wyllie"). This rejection is respectfully traversed.

Independent claims 20, 28 and 35 recite a "sleeve coupled to at least one the bottom panel or the wall panel". In contrast, Shaw entirely fails to disclose or suggest such a sleeve. Shaw merely discloses a resilient frame member 14 "connected adjacent to or incorporated in the perimeter of bottom 11 or the lower edge of wall 12" (see col. 3, lines 58-20), but provides no information as to how any such connection can be made. In fact, Figure 3 shows the resilient frame member 14 positioned between the outer layer (defined by bottom 1 and wall 12) and the inner layer (liner 16).

In sum, Shaw fails to disclose or suggest a sleeve, which is recited in independent claims 20, 28 and 35 as being separate from the recited "wall panel" and "base panel."

Moreover, Shaw and Wyllie are not properly combinable. Shaw's disclosure is directed to solving the problem of containing hazardous materials, and Shaw states that human contact with the hazardous materials should be "avoided at all costs" (col. 1, lines 26-28 and 42-49). Shaw only discloses floating member 15 in the form of polyethylene foam, presumably because such foam can be folded during storage of the device and this approach is the best way to minimize human contact with the hazardous materials. In contrast, Wyllie is directed to solving the problem of storing water for fire fighting or forming a small swimming pool (col. 1, lines 15-21). There are no concerns in Wyllie about human contact with the tubes 9 and 5, which are "inflated through conventional inflation valves" (col. 2, lines 8-10), for example by a user placing their mouth on the inflation valves and exhaling. Such an approach would be unacceptable with Shaw, which teaches away from any technique that involves anything other than minimal human contact.

The Claims are Patentable over Wyllie in View of Shaw

Independent claims 20, 28 and 35 stand rejected under 35 USC 103(a) as being unpatentable over Wyllie in view of Shaw. This rejection is respectfully traversed.

In summary, no motivation exists whatsoever to modify Wyllie in the manner proposed by the Examiner.

First, although Wyllie discloses a pipe, such a pipe is never disclosed or suggested as being located within the inflatable base tube 5. In fact, Wyllie states that "the tank may be filled or emptied through a pipe passing through the side wall thereof at a location just above the base tube" (emphasis added) (col. 2, lines 34-36). Wyllie explicitly discloses that the pipe is located outside of the base tube and likely teaches away from putting any such structure within the base tube.

Second, unlike independent claims 20, 28 and 35, which recite a "frame member having a folded and unfolded configuration" (or a coiled and uncoiled configuration), the pipe of Wyllie is not capable of assuming both configurations. Wyllie is entirely silent as to the pipe having any configuration other than a single configuration when filling or emptying the storage tank, such that the two configurations of folded /unfolded (or coiled /uncoiled) are entirely missing.

Finally, the Examiner's proposal to add the frame member of Shaw to Wyllie to "provide a weight thereon to stablize the container" is utterly baseless. According to Wyllie, "[i]t is found that the filed tank has a remarkable degree of stability" (col. 2, lines 24-25). In fact, Wyllie is so stable that "an adult person can stand upon the mouth tube, using it as a platform from which to dive" (col. 2, lines 26-27). Therefore, absolutely no reason exists to add the frame member of Shaw to provide a weight to stabilize the container in Wyllie.

The Claims are Patentable over Shaw in View of Wyllie and Further in View of Ivanovich

Independent claim 29 stands rejected under 35 USC 103(a) as being unpatentable over Wyllie in view of Shaw, and further in view of USP 5,163,461 to Ivanovich et al. ("Ivanovich"). This rejection is respectfully traversed.

Independent claim 29 is patentable over Shaw in view of Wyllie and in further view of Ivanovich. For the reasons provided above, Shaw and Wyllie are not combinable, so any attempts to make further modifications based on Ivanovich are impermissibly based on a hindsight use of the present claim.

In addition, Ivanovich is directed to solving the problem of faster erection of tent-like structures having multiple loops while also allowing the fabric to be separated from the loops for easier cleaning of the fabric (col. 1, lines 31-28). In contrast, as discussed above, Shaw is directed to solving the problem of containing hazardous materials. Therefore, a person skilled in the art who is looking to solve the problem of containing

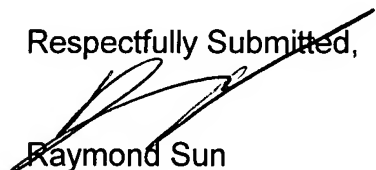
hazardous materials would not look to references directed to the rapid erection of tent-like structures where the fabric can be separated from the multiple loops.

* * *

Since independent claims 20, 28, 29 and 35 are allowable over the cited references, claims 21-27, 30-34 and 36-39 depending therefrom are allowable for the same reasons.

Thus, all pending claims are submitted to be in condition for allowance. The Examiner is encouraged to telephone the undersigned if there are informalities that can be resolved in a phone conversation, or if the Examiner has suggestions for placing the claims in condition for allowance.

Respectfully Submitted,



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I hereby certify that this paper and its enclosures are being deposited with the United States Postal service as First Class Mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Date: April 18, 2007

By: 
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